

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

JOINT APPROPRIATIONS SUBCOMMITTEE ON LONG RANGE PLANNING

Call to Order: By **CHAIRMAN DAVE KASTEN**, on January 24, 2003 at 8:30 A.M., in Room 350 Capitol.

ROLL CALL

Members Present:

Rep. Dave Kasten, Chairman (R)
Sen. Tom Zook, Vice Chairman (R)
Rep. Christine Kaufmann (D)
Sen. Jon Tester (D)
Sen. Joseph (Joe) Tropila (D)
Rep. John Witt (R)

Members Excused: Sen. Bob Keenan (R)

Members Absent: None.

Staff Present: Catherine Duncan, Legislative Branch
Jane Hamman, OBPP
CJ Johnson, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 7, RECLAMATION AND DEVELOPMENT
GRANT PROGRAM (RDGP) - VOLUME 5
Executive Action: None

CHAIRMAN KASTEN opened the Committee hearing on HB 7, Reclamation and Development Grant Program.

HEARING ON HB 7

Reclamation and Development Grant Program (RDGP)

REP. WITT, HD 89, moved to open HB 7. He said that HB 7 is at the request of the Department of Natural Resources and Conservation (DNRC), and the Office of Budget and Planning (OBPP). The bill appropriates money for designated projects under the RDGP by prioritizing the amount granted, and the conditions to receive the grants.

CHAIRMAN KASTEN said there are several housekeeping issues to clean up language, and Todd Everts, LFA, is working on some amendments.

Cathy Duncan, LFA, discussed HB 7. She said that "the RDGP was designed to repair, reclaim, and mitigate environmental damage to public resources for nonrenewable resource extraction, and to develop and ensure the quality of public resources for the benefit of Montana citizens. RDGP is funded with statutory allocation from the interest of the Resource Indemnity Trust. Currently there is an appropriation of \$1.2 million per year to fund the projects. Previously, the program was appropriated \$1.5 million, and has now been reduced to \$1.2 million from the Special Session. She said it will return to \$1.5 million in fiscal year 2006. There is \$2.4 million for grants in this biennium. In this funding, priority is given to the Montana Board of Oil and Gas Conservation not to exceed \$600,000, and priority for Abandoned Mine Reclamation not to exceed \$800,000."

Ms. Duncan distributed a handout, Table 3, for the Committee to work from that list the amount requested, the amount recommended from HB 7, the Governor's recommendation, and the totals of the cumulative amount.

EXHIBIT (j1h15a01)

{Tape: 1; Side: A; Approx. Time Counter: 0 - 7.8}

John Tubbs, RDGP-DNRC, gave a brief history of the grant program that was created and put into statute in 1987. He introduced Greg Mills from his office that will be assisting him in this hearing. He informed the Committee that the focus today will be on the Board of Oil and Gas projects, and Monday will be the Mine Reclamation projects, and then wrap up on Tuesday. He said the \$2.4 million allocated for this biennium will only fund eight or

nine projects. The maximum grant that they will recommend for each project is \$300,000.

Mr. Tubbs reviewed the budget book titled; RDGP Governor's Budget for Fiscal Years 2004-2005, Volume 5, its purpose, process, and the requests for funds. He said they received requests for projects that totaled \$7.3 million, but only have \$2.4 million to allocate.

He reviewed the program information, the project eligibility criteria, and the five categories that must be provided to receive the grants: 1) Land, water, or other resources adversely affected by mineral development; 2) Mitigation of damage to public resources caused by mineral development; 3) Research, demonstration, or technical assistance to promote the use of Montana minerals; 4) Investigation and remediation of sites where hazardous wastes or regulated substances threaten public health or the environment; and 5) Research to assess existing or potential environmental damage resulting from mineral development.

He discussed the Crucial State Need project, which is a Natural Resource project. He said they look for agencies that are responsible for governing Montana's Natural Resources and their support such as CBM (coal bed methane) development.

He said that the eligibility for this program is for governmental entities only. He reviewed the ranking system for specific criteria in each category, stating that the applications are due by May 15th. He then said the applications are reviewed for completeness and correctness, than they go for a full review to determine the scores which are then assigned to each project. He said the applications that are recommended for funding are reviewed by the Director who approves and sends them to the Governor's Office. They are then placed in this Committee.

Mr. Tubbs discussed DEQ's (Department of Environmental Quality) role, and the frustrations they encounter with the clean-up of hard rock mining.

{Tape: 1; Side: A; Approx. Time Counter: 7.8 - 15}

He said that the oil and gas industry is an exception when it comes to clean-up issues. The industry is exempt from the rules that DEQ administers. He said while the industry can be harmful to the environment, the litigation is straightforward. **Mr. Tubbs** said it can become very expensive when there is hazardous waste to deal with.

Mr. Tubbs discussed the cost for clean-up of hard rock mining, stating it is high. He commented that SEN. CONRAD BURNS has been working on locating funds to assist in the clean-up of the Zortman-Landusky mine. He stated that DEQ has urged the Army Corp of Engineers to help with the funding in the reclamation of Zortman-Landusky. He discussed the issue of the Army Corp of Engineer being involved when the Bureau of Land Management (BLM) owns half of Zortman-Landusky. SEN. BURNS has requested \$30 million from Congress for the full reclamation at Zortman-Landusky. **Mr. Tubbs** said that Montana can be thankful and should back SEN. BURNS in this endeavor.

{Tape: 1; Side: A; Approx. Time Counter: 15 - 18}

Mr. Tubbs distributed a list of prior year grants for the Oil and Gas projects that have not expended any of their funds at this time. He said that the projects below the line will not be funded. He addressed each project and made suggestions to the Committee on which projects to fund.

EXHIBIT (j1h15a02)

He suggested they strike the Powell and Broadwater projects, because the Forest Service is not cooperating with DNRC. He said there is also some private land involved in this issue.

{Tape: 1; Side: A; Approx. Time Counter: 18 - 27}

Mr. Tubbs identified a shut-in well, stating it is a well that has not produced oil in 12 months or more. He discussed Ms. Duncan's handout (Exhibit 1), and reviewed the wells that have been or will be plugged.

{Tape: 1; Side: A; Approx. Time Counter: 27 - 30.6}

{Tape: 1; Side: B}

Mr. Tubbs said it is the Committee's responsibility to get these grants through, and send them to the full House Appropriations Committee. He discussed the \$1 million deficit that the department is short, whether HB 177 passes or not. When HB 177 was undertaken it took away the oil and gas tax revenues that are deposited into the RDGP, and has created approximately a \$3 million deficit, but the grants are protected by the \$2.4 million that is base. He discussed cutting DEQ permitting and other critical parts of the grants, but said if this happens, it would eliminate most of the grants listed on Exhibit 2. The projects will move forward with or without these funds because of the large pockets of surface money from Mine Reclamation funds. Because of HB 7, everything below the funding line will have to

be removed, and would leave only three or four projects that can be funded this coming biennium. **Mr. Tubbs** closed his presentation of this program.

Questions from Committee Members and Responses:

SEN. ZOOK asked Mr. Tubbs about the RIT (Resource Indemnity Trust), and where is it going. **Mr. Tubbs** said it was scheduled to come into the RDGP, but it was recommended by the Governor's Office to move the tax into the general fund for the next two years. **CHAIRMAN KASTEN** asked Mr. Tubbs to give the dollar amounts with HB 177 and without HB 177. **Mr. Tubbs** said that without HB 177 they would receive \$2.4 million, and with HB 177, it is proposed to be \$1.6 million, but with the cuts it will be closer to \$1 million.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 11}

SEN. TESTER and **John Tubbs** discussed the prior year grants in Exhibit 2.

{Tape: 1; Side: B; Approx. Time Counter: 11 - 12}

Mr. Tubbs reviewed the list on Exhibit 2, and suggested the projects he would like to see stay on the list, and those he asked to have taken off.

{Tape: 1; Side: B; Approx. Time Counter: 12 - 19}

**Montana Board of Oil and Gas Conservation,
RDGP-Projects #1 & #2 Page 7**

CHAIRMAN KASTEN opened the hearing on the Montana Board of Oil and Gas Conservation, RDGP-Projects #1 & #2 Page 7.

Greg Mills, RDGP-DNRC, recommended the full request of \$300,000 for each project.

Proponents:

Tom Richmond, Administrator and Petroleum Engineer for the Gas and Oil Conservation, discussed projects #1 & #2. He gave a summary on the reclamation of the wells, and their efforts to preserve the land back to its original state.

{Tape: 1; Side: B; Approx. Time Counter: 19 - 22}

Steven Sasaki, Montana Board of Oil and Gas, presented a visual overhead of the wells that have been reclaimed back to their original state. He explained the process of restoring the wells.

{Tape: 1; Side: B; Approx. Time Counter: 22 - 27}

Gail Abercrombie, Executive Director of the Montana Petroleum Association, stated support for this project.

Patrick Montalban, Lobbyist for the Montana Oil and Gas Association, stated their support for this project.

{Tape: 1; Side: B; Approx. Time Counter: 27 - 29}

Opponents: None

Questions from Committee Members and Responses:

SEN. TESTER asked Steven Sasaki about the funds they had received in the last biennium for wells. He wanted to know how many of the wells have been plugged and how many more they need to plug. **Mr. Sasaki** discussed the number of wells they have plugged, and the cost they have invested over and above the grant that was awarded them in the last biennium. He said that they only have a couple of wells that need to be plugged.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 2.4}

REP. KAUFMANN asked Tom Richmond what the difference is between an abandoned well and an orphan well. **Mr. Richmond** said in their business, the wells are called P & A (plugged and abandoned) wells. He said that an abandoned well does not produce, and doesn't have any future value. An orphan well should be plugged and abandoned, because it doesn't have a responsible party (no one owns it) to plug it.

CHAIRMAN KASTEN closed the hearing on Projects #1 and #2.

**Board of Oil and Gas Conservation-Fate and Transport of
Impounded Coal Bed Methane (CBM) Water,
RDGP-Project #6 Page 17**

CHAIRMAN KASTEN opened the hearing on the Board of Oil and Gas Conservation-Fate and Transport of Impounded Coal Bed Methane (CBM) Water, RDGP-Project #6 Page 17.

Greg Mills, RDGP-DNRC, said that this project is part of a regional study funded by the U.S. Department of Energy on CBM water beneath the Powder River. The data will be used to formulate a sound scientific basis for permitting CBM in the Powder River Basin. DNRC recommends this project be funded for \$200,000.

Proponents:

Tom Richmond, Montana Board of Oil and Gas Conservation, distributed a handbook titled, Best Management Practices and Mitigation Strategies for Coal Bed Methane in the Montana Portion of the Powder River Basin, April 2002, U. S. Department of Energy. He discussed the grants they have requested for this project, and the purpose of the project.

EXHIBIT (j1h15a03)

{Tape: 2; Side: A; Approx. Time Counter: 2.4 - 10.8}

Gail Abercrombie, Executive Director for the Montana Petroleum Association, stated their support for this project. She said that the study for this project is very valuable in the impoundments and where the water goes. She said that the study done in Wyoming shows that the water is infiltrating downward, but they need this to be done in Montana to confirm that is what it is doing here also.

Jeff Barber, Montana Environmental Information Center, stated his support, and said that this research is a good tool for the Board of Oil and Gas Permitting and Impoundment Study. **Mr. Barber** asked that someone from the regulatory framework also be included in the study such as, Jim Bowder, MSU, Soil Scientist and John Leapman, Hydrogeologist.

Opponents: None

Questions from Committee Members and Responses:

CHAIRMAN KASTEN asked about the grants that were discussed. **Tom Richmond** responded that they are requesting grants from several sources. One is a grant of \$200,000 from their own operating funds, and this RDGP grant for \$200,000, and another request for federal funds that require a State match. He said they have offered \$20,000 of in-kind services to match the grant requested from this Committee. He said that the federal funds and the others listed will total approximately \$800,000.

Jane Hamman, OBPP, asked what the difference is between impoundments in these projects, and those developed for irrigation water. **Mr. Richmond** responded that physically there isn't any difference. He said that there are issues with downstream water rights from impoundments. When the natural flow of water is stopped, someone downstream is being affected. He said that Wyoming has constructed by-passes around their impoundments so the water goes around it or under it without affecting anyone else. He stated that only CBM water is impounded.

{Tape: 2; Side: A; Approx. Time Counter: 10.8 - 21}

Tom Richmond discussed the process in the placement of an impoundment in a drainage area and by-passing it. He stated that this allows the landowner, if they have the water rights, to remove the by-pass when the CBM is gone, and then use it as a natural impoundment for run-off. He discussed a project that has been developed at Montana Tech in their Geophysics Department. They have developed a 3-D seismic array that can be pulled behind a 4-wheeler that shoots seismic for the crew to view shallow geology. He said when they do this continually over time it becomes 4-D, because it places another picture over the top of the 3-D picture.

CHAIRMAN KASTEN closed the hearing on Project #6.

{Tape: 2; Side: A; Approx. Time Counter: 21 - 30.5}

**Big Horn Conservation District,
Project #4 Page 12**

CHAIRMAN KASTEN opened the hearing on the Big Horn Conservation District, Project #4 Page 12.

Greg Mills, RDGP-DNRC, informed the Committee that this application is the department's second request for CBM water development project. He recommends the full \$300,000 grant.

Proponents:

Tom Zelaa, Chair of the Bighorn County Conservation District, distributed a handout on the purpose and need for the project, which he read. **Mr. Zelaa** introduced John Wheaten.

EXHIBIT (j1h15a04)

John Wheaten, Hydrogeologist for the Montana Bureau of Mines and Geology, gave more background on the handout that Mr. Zelaa had distributed. He reviewed the map on the back of Exhibit 4 regarding the CBM groundwater monitoring well locations.

{Tape: 2; Side: B; Approx. Time Counter: 0 - 11}

The Committee members asked questions about how deep the wells are, where they are drilling the wells, and how they measure the aquifer. **John Wheaten** summarized and answered their questions by referring to the map.

{Tape: 2; Side: B; Approx. Time Counter: 11 - 16.9}

Sara Carlson, Montana Association of the Soil Conservation District, urged the Committee to support this project, stating there is a great need for this baseline data.

Jeff Barber, Montana Environmental Information Center, stated his support for this project.

Opponents: None

Questions from Committee Members and Responses:

The Committee members asked questions about the CBM wells, the life of the wells, and their comparison to the wells in Wyoming. **John Wheaten** responded and supplied answers to the Committee. The wells have a life span of five to fifteen years. Comments were made about the environmental resources of these projects.

{Tape: 2; Side: B; Approx. Time Counter: 16.9 - 25}

CHAIRMAN KASTEN closed the hearing on Project #4.

**Toole County,
Project #9 Page 22**

CHAIRMAN KASTEN opened the hearing on Toole County, Project #9 Page 22.

Greg Mills, RDGP, said that this is the project that John Tubbs referred to in his presentation of the program. This proposal will allow for the plugging of Toole County's abandoned wells. He recommended the reduced amount of \$240,000 from the original amount requested.

Proponents:

Karen Salo, representing Toole County and Small Independent Operators, distributed letters from Toole County in support for this project (Exhibits 5 & 6).

Ms. Salo distributed a handout (Exhibit 7), on the cost comparison per foot for the County and the State. She urged the Committee to support this project.

EXHIBIT(jlh15a05)

EXHIBIT(jlh15a06)

EXHIBIT(jlh15a07)

Patrick Montalban, Lobbyist for the Montana Oil and Gas Association, discussed the small independent operators of Montana. He discussed the interest from the RIT, and how it funds these projects. He gave reasons why they need these funds for the reclamation of the wells, and urged the Committee to support the project.

{Tape: 2; Side: B; Approx. Time Counter: 25 - 29}

{Tape: 3; Side: A;}

Mr. Montalban discussed the importance of plugging the wells in Toole County.

Gary Feland, President of the Northern Montana Oil and Gas Association, stated his support for this project. He discussed the reclamation of wells that have already taken place. He said that the relationship between the industry, and the farmers and ranchers is better since the clean-up of these wells.

John Walls, C-W Joint Venture, said that he used some of the monies from the grant that was awarded from the Committee in the last session to plug wells. He asked the Committee to support this project.

SEN. GLENN ROUSH, SD 43, informed the Committee that this program works. He said that previous funds from the Committee have assisted in the clean-up of other well sites. He asked the Committee to support this project.

Gail Abercrombie, Executive Director of Montana Petroleum Association, said that the Association supports this project.

Tom Richmond, Montana Board of Oil and Gas, stated that the Board supports this project and asked the Committee to do the same.

Marilyn Amber, small independent owner of well in Toole County, said that this is a great program, and urged the Committee to support this project.

Rick Rice, representing two Companies, Phoenix Energy and Miscellaneous Oil, stated that he owns these two companies, plus he does contracting on outside oil wells. He asked the Committee to support this project.

EXHIBIT (j1h15a08)

{Tape: 3; Side: A; Approx. Time Counter: 9 - 11}

Opponents: None

Questions from Committee Members and Responses:

REP. KAUFMANN asked Greg Mills if they will ever finish plugging wells or is it an ongoing project. **Mr. Mills** said that there is an ending, but it depends on the funding allocated. He said they can plug 200 to 250 wells per biennium, and have 20,000 wells that need to be plugged, which would take about 10 years.

CHAIRMAN KASTEN asked why is there such a big difference in cost between private ownership, and state to plug wells. **Karen Salo** responded that the State has to refer to Bacon Davis contractors, and the private owners usually plug the wells themselves. **Mr. Tubbs** informed the Committee that the wells that are not privately owned; the State pays 100 percent of the cost, or 75 cents a foot. **Mr. Sasaki** responded to the question stating that a lot of the wells have to be drilled before they can be plugged. He said this is the reason it costs the State more.

REP. WITT asked Karen Salo to explain the cost share between the state and private. **Ms. Salo** referred to Exhibit 7.

{Tape: 3; Side: A; Approx. Time Counter: 11 - 20}

CHAIRMAN KASTEN closed the hearing on Project #9.

**Sheridan County Conservation District,
RDGP-Project #10 Page 26**

CHAIRMAN KASTEN opened the hearing on Sheridan County Conservation District, RDGP-Project #10 Page 26.

Greg Mills, RDGP-DNRC, said that the purpose of this project is to reclaim 15 to 30 oil fields. He recommended a reduced grant of \$150,000, contingent on conditions from DRNC that the scope of the work be adjusted to state that the project would attempt to address the most contaminated sites with this funding. He referred to the recommendations list on page 29.

Proponents:

Tim Holte, Supervisor of the Sheridan County Conservation District, distributed a fact sheet for Sheridan's proposal, which he discussed.

EXHIBIT(jlh15a09)

Mr. Holte also distributed a visual showing the before and after reclamation of oil wells.

EXHIBIT(jlh15a10)

{Tape: 3; Side: A; Approx. Time Counter: 23 - 28}

SEN. LINDA NELSON, SD 49, stated her support for this project, and urged the Committee to support it. She informed the Committee that Sheridan County is part of the Williston Oil Basin, and there are numerous abandoned wells that need to be plugged.

Sara Carlson, Montana Association of the Soil Conservation District, stated her support for the project, and urged the Committee to support it.

REP. DONALD HEDGES, HD 97, stated his support for this project.

Opponents: None

Questions from Committee Members and Responses:

CHAIRMAN KASTEN asked how many acres does a well cover. **Mr. Holte** responded that it can be from two-tenths of an acre to five acres.

{Tape: 3; Side: A; Approx. Time Counter: 28 - 30 }

The Committee members and Mr. Holte discussed the funding issue, and support received from other entities or agencies.

{Tape: 3; Side: B; Approx. Time Counter: 0 - 5}

CHAIRMAN KASTEN closed the hearing on Project #11.

**Fergus County Conservation District,
RDGP-Project #13 Page 34**

CHAIRMAN KASTEN opened the hearing on Fergus County Conservation District, RDGP-Project #13 Page 34.

Greg Mills recommended a reduced funding for \$150,000.

Proponents:

Tommy Connan, farmer/rancher from Winifred, stated his support for this project. He distributed a handout that summarizes the conservation work that has been done, and work that is on-going. He urged the Committee to support this project.

EXHIBIT (j1h15a11)

Dave Kolar, farmer, wanted to go on record for this project, and urged the Committee for their support.

Sara Carlson, Montana Association of the Soil Conservation District, wanted to go on record in support for this project.

REP. BILL THOMAS, HD 93, stated his support for this project. He said the grant is supporting a great project by cleaning the waste and bringing our natural resources back to their origin.

Opponents: None

Questions from Committee Members and Responses: None

CHAIRMAN KASTEN closed the hearing on Project #13.

**Judith Basin Conservation District,
RDGL-Project #14 Page 37**

CHAIRMAN KASTEN opened the hearing on Judith Basin Conservation District, RDGL-Project #14 Page 37.

Greg Mills RDGP-DNRC, said that this project is similar to the Fergus County project. He said that DNRC is recommending a reduced grant of \$70,000.

Proponents:

Dave Kolar, farmer, distributed visuals of wells located near Hobson, and gave an overview how they are reclaiming them. He urged the Committee to support this project.

EXHIBIT(jlh15a12)

Jon Riten, Montana Bureau of Mines, stated his support for this project. He asked the Committee to grant them these funds.

Sara Carlson, Montana Association of the Soil Conservation District, said that this is a model of the Soil Conservation District, and asked the Committee to support this project.

{Tape: 3; Side: B; Approx. Time Counter: 5 - 19}

REP. BILL THOMAS, HD 93, said this is the first time that the Judith Basin Community has participated in this type of project. He urged the Committee to fund this project.

Opponents: None

Questions from Committee Members and Responses:

REP. WITT asked Dave Kolar about digging wells below the frost line. **Mr. Kolar** responded that they use adapters on the hydrants that make the wells frost-free.

{Tape: 3; Side: B; Approx. Time Counter: 19 - 23}

SEN. ZOOK asked if there is a federal program that can assist them with funds for this project. **John Tubbs** responded that the DNRC has a large appropriation that they are trying to get out to assist these projects. He said if they cannot receive USDA (U.S. Department of Agriculture - the farm bill) money, they will have to look elsewhere.

CHAIRMAN KASTEN closed the hearing on Project #14, and adjourned the Committee.

ADJOURNMENT

Adjournment: 11:40 A.M.

REP. DAVE KASTEN, Chairman

CJ JOHNSON, Secretary

DK/CJ

EXHIBIT (j1h15aad)